

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Case No. 16-1132
Consolidated with Case No. 16-1173

PRIME HEALTHCARE PARADISE VALLEY, LLC,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

**PETITIONER'S ANSWER
TO THE CROSS APPLICATION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR RELATIONS BOARD**

Pursuant to Rule 15(b)(2) of the Federal Rules of Appellate Procedure, Petitioner Prime Healthcare Paradise Valley, LLC ("Prime Healthcare") hereby answers the allegations set forth in Respondent National Labor Relations Board's ("NLRB") Cross-Application for Enforcement of its Order issued against Prime Healthcare on April 22, 2016 in NLRB Case Nos. 21-CA-133781 and 21-CA-133783, reported at 363 NLRB No. 169. Prime Healthcare previously filed a Petition for Review of the Order, arguing that it should be set aside. That Petition remains pending. Out of an abundance of caution and in light of Rule 15(b)(2),

Prime Healthcare files this Answer to the NLRB's Cross-Application for Enforcement, again asking the Court to set aside the NLRB's Order and deny the NLRB's request for enforcement, and further avers as follows:

1. Prime Healthcare admits that the NLRB issued its Order in NLRB Case Nos. 21-CA-133781 and 21-CA-133783 on April 22, 2016, and that the Order is reported at 363 NLRB No. 169.

2. Prime Healthcare admits that it filed a Petition for Review of the Order with this Court on April 28, 2016.

3. Prime Healthcare denies that the NLRB is entitled to enforcement of the provisions and relief contained in its April 22, 2016 Order.

4. To the extent there are any additional allegations set forth in the first unnumbered paragraph of the NLRB's Cross-Application for Enforcement, Prime Healthcare denies such additional allegations. Prime Healthcare will fully address the NLRB's Cross-Application for Enforcement during briefing.

5. Prime Healthcare denies that it violated the National Labor Relations Act ("NLRA"), as found in the NLRB's April 22, 2016 Order, and avers that the Order has no reasonable basis in law and that the remedy ordered therein is contrary to the NLRA and does not effectuate the purposes of the NLRA.

6. Prime Healthcare affirmatively alleges that the NLRB's Order fails to conform to the requirements of 28 § U.S.C. 160(e) and (f) because the NLRB

failed to apply the proper legal standard and its Order is contrary to law, arbitrary and capricious, an abuse of discretion, and/or otherwise improper.

7. Prime Healthcare admits that this Court has jurisdiction over the NLRB's Cross-Application for Enforcement as set forth in the second unnumbered paragraph of the Cross-Application.

8. Prime Healthcare admits that venue is proper in this Circuit as set forth in the second unnumbered paragraph of the Cross-Application for Enforcement.

WHEREFORE, Petitioner Prime Healthcare respectfully requests that this Court deny the Cross-Application for Enforcement and grant Prime Healthcare's Petition for Review, setting aside the NLRB's Order.

Dated: June 28, 2016

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ David Gallacher

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Prime Healthcare Paradise Valley, LLC

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2016, I caused a true and accurate copy of the foregoing **PETITIONER'S ANSWER TO THE CROSS APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD** to be served via electronic delivery and/or First Class U.S. Mail, postage prepaid on the following persons:

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Dated: June 28, 2016

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